IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8682 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHHAGANBHAI NARANBHAI

Versus

SPECIAL LAND ACQUISTION OFFICER

Appearance:

MR NITIN M AMIN for Petitioners

MR RC KODEKAR, AGP for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.C.PATEL

Date of decision: 06/09/2000

ORAL JUDGEMENT

(Per: J.M. Panchal, J.)

Rule. Mr. R.C. Kodekar, learned Assistant Government Pleader waives service of notice of Rule on behalf of the respondents.

2. Having regard to the facts of the case and in view of joint request made by the learned counsel for the parties, the petition is taken up for final hearing today.

3. By means of filing this petition under Article 226 of the Constitution, the petitioners have prayed to issue a writ of mandamus or any other appropriate writ or order directing the respondents to redetermine the amount of compensation payable to the petitioners on the basis of the judgment and award dated September 17, 1999 rendered by the Learned Special Judge (LAR) and 2nd Extra Assistant Judge, Ahmedabad (Rural) at Mirzapur in Land Acquisition Case No.1333 of 1996 as well as Land Acquisition Case No.1334 of 1996.

4. The land of the petitioners and others were acquired for the purpose of construction of Viramgam Branch Canal of Sardar Sarovar Narmada Corporation Limited pursuant to publication of Notification issued under Section 4(1) of the Land Acquisition Act, 1894 on March 26, 1992. The Special Land Acquisition Officer offered compensation to the claimants by his award dated July 30, 1994. Some of the claimants being dissatisfied with the offer of the compensation made by the Special Land Acquisition Officer had sought references under Section 18 of the said Act and the Learned Special Judge (LAR) and 2nd Extra Assistant Judge, Ahmedabad (Rural) at Mirzapur in Land Acquisition Case No.1333 of 1996 and Land Acquisition Case No.1334 of 1996 has enhanced compensation payable to the claimants by award dated September 17, 1999. The petitioners claim that their lands were also acquired by the same Notification published under Section 4(1) of the Act and are entitled to benefits of the said award under Section 28A of the Act. Therefore, they have filed application dated October 30, 1999 seeking redetermination of the compensation payable to them in terms of the award of the court. The application submitted by the petitioners under Section 28A of the Act is produced on the record of the case as Annexure D to the petition. The grievance made by the petitioners in the present petition is that though the application under Section 28A is filed on October 30, 1999 the said application is not decided by the Respondent No.1. Under the circumstances, the

petitioners have filed the present petition and claimed reliefs to which reference is made earlier.

5. Though the respondents are duly served, no affidavit-in-reply has been filed by any of them controverting the averments made in the petition.

6. We have heard the learned counsel for the parties and considered the documents forming part of the petition. The fact that the petitioners have submitted application under Section 28A of the Land Acquisition Act on October 30, 1999 for redetermination of the compensation payable to them in terms of the award of the court is not in dispute. It is also not in dispute that the said application is not decided by Respondent No.1 till this date. In the circumstances, we are of the opinion that interest of justice would be served if Respondent No.1 is directed to decide the said application within the time stipulated in this order.

7. For the foregoing reasons, the petition succeeds. Respondent No.1 is directed to decide the application dated October 30, 1999 submitted by the petitioners under Section 28A of the Land Acquisition Act, 1894 on merits as early as possibly and preferably, within two months from today. Rule is made absolute accordingly with no orders as to cost. The office is directed to send a copy of the order to Respondent No.1 immediately. It will also be open to the petitioners to produce true copy of the order before the Respondent No.1 for necessary compliance. Direct Service permitted.

(J.M. Panchal, J.)

(M.C. Patel, J.)

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